

## **Assembly Bill No. 2592**

### **CHAPTER 679**

An act to amend Sections 6980, 6980.10, 6980.12, 6980.13, 6980.22, 6980.26, 6980.33, 6980.48, 6980.53, 6980.59, 6980.60, 6980.64, and 6980.65 of, to add Section 6980.54 to, to repeal Section 6980.36 of, and to repeal and add Section 6980.14 of, the Business and Professions Code, relating to locksmiths.

[Approved by Governor September 30, 2008. Filed with  
Secretary of State September 30, 2008.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 2592, Ma. Locksmiths.**

Existing law provides for the licensure and regulation of locksmiths and the registration of employees of locksmiths by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. Under existing law, the bureau is under the supervision and control of the Director of Consumer Affairs. Existing law also requires the Governor to appoint a chief to serve under the direction and supervision of the director. Existing law makes it a misdemeanor for any person to violate the locksmith provisions.

Existing law exempts from licensure or registration as a locksmith or employee of a locksmith certain individuals and practices.

This bill would modify and expand those exemptions, as specified.

Existing law requires a licensee or registrant to carry and display a pocket identification or registration card, issued by the chief, while engaged in the work of a locksmith, as specified. Existing law authorizes the bureau to charge a fee sufficient to reimburse the department for furnishing an enhanced pocket registration card, which is composed of durable material, or a pocket identification card.

This bill would require a partner or officer of a licensee to carry a pocket identification card. In addition, the bill would require a licensee, registrant, or partner or officer of a licensee to also carry and display a valid driver's license or valid identification card issued by the Department of Motor Vehicles, as specified.

Existing law requires branch offices of licensed locksmiths to be registered with the bureau.

This bill would revise the definition of branch office and would require each locksmith license to be conspicuously displayed at each branch office and in each mobile service vehicle, as defined, for which the license is issued. The bill would authorize the director to assess a \$250 fine for violation of that requirement.

Existing law requires a licensee to notify the bureau of any change in its officers or the addition of new partners, and requires applications to be submitted for those officers and partners. A 2nd or subsequent violation of this requirement is subject to a fine of \$25.

This bill would increase that fine to \$500.

Existing law requires advertisements by a locksmith to contain the locksmith's address, as specified.

This bill would define "advertisement" for that purpose and require each advertisement to contain certain additional information, and would authorize the director to assess fines for violations of those requirements.

Existing law makes it a misdemeanor, punishable by a fine of \$1,000 or imprisonment in a county jail, as specified, or both that fine and imprisonment, for any unlicensed or unregistered person to engage in certain acts relating to the locksmith business. Existing law also makes it a misdemeanor to violate or conspire to violate any of the provisions governing locksmiths.

This bill would revise and recast those provisions and would increase the fine for violations of those provisions to \$10,000. The bill would authorize the issuance of an injunction by a court and imposition of civil fines, as specified. The bill would prohibit the issuance of licenses to persons convicted of specified violations for certain periods of time and would also prohibit a locksmith from duplicating a key in certain circumstances.

The bill would enact other related provisions.

Because a violation of the requirements and prohibitions created by this bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6980 of the Business and Professions Code is amended to read:

6980. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Branch office" means any additional physical location, other than the principal place of business of a licensee, where any locksmith service is provided. Branch office includes the California office of any out-of-state business conducting, directing, dispatching, or managing a locksmith business, service, or service providers in California. A telephone answering service or a telephone call-forwarding device, for routing calls within the immediate geographic area, shall not be deemed to be a branch office.

(b) "Bureau" means the Bureau of Security and Investigative Services.

(c) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(d) “Department” means the Department of Consumer Affairs.

(e) “Director” means the Director of the Department of Consumer Affairs.

(f) “Employer” means a person who employs an individual for wages or salary, lists the individual on the employer’s payroll records, and withholds all legally required deductions and contributions.

(g) “Employee” means an individual who works for an employer, is listed on the employer’s payroll records, and is under the employer’s direction and control. An independent contractor is not an employee pursuant to this chapter.

(h) “Employer-employee relationship” means an individual who works for another and where the individual’s name appears on the payroll records of the employer.

(i) “Licensee” means a business entity, whether an individual, partnership, or corporation, licensed under this chapter.

(j) “Locksmith” means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, repairing, opening, modifying locks, or who originates keys for locks, including, but not limited to, electronic cloning of transponder keys and any other electronic programming of automotive keys and electronic operating devices, such as key fobs, door and ignition key devices, and successive electronic and other high-security key technology. A “locksmith” does not mean a person whose activities are limited to making a duplicate key from an existing key.

(k) “Person” means any individual, firm, company, association, organization, partnership, or corporation.

(l) “Registrant” means an employee registered pursuant to the provisions of this chapter.

(m) “Lock” means any mechanical, electromechanical, electronic, or electromagnetic device, or similar device, including any peripheral hardware, that is designed to control access from one area to another, or that is designed to control the use of a device, including, but not limited to, a safe, vault, or safe deposit box.

(n) “Recombination” means changing the combination of any combination-actuated lock.

(o) “Master key system” means any system in which a lock is rekeyed so that the lock can be operated by its own individual key and can also be operated by a key that can operate other locks if the other locks cannot be operated with the lock’s individual key.

(p) “Key duplication machine” means any tool whose only capability is to manufacture a new key by using an existing key as a guide, which includes, but is not limited to, any of the following:

(1) Standard key duplication machines that are limited to duplication of a metallic key from an existing metallic key, standard single- or double-sided key, including a plastic “credit card” emergency key.

(2) High-security key machines that include the duplication of restricted keys, such as sidewinders and laser cut styles of machines.

(3) Transponder cloning and reprogramming machines that transfer electronic codes and signals and successive technology to keys, fobs, and door and ignition operating devices.

(q) “Key blank” means a key that has not been altered or cut and does not include depth keys.

(r) “Pin kit” means a container that holds only the following lock parts and materials:

(1) Bottom pins.

(2) Top pins (not including master pins).

(3) Springs.

(4) Plug follower.

(5) Proprietary tools, provided by a lock manufacturer, designed for the purpose of rekeying a lock.

(s) “Locksmith tool” means (1) any tool designed for the purpose of opening, bypassing, altering, rekeying, servicing, or repairing any lock, or (2) any burglar tool, as described in Section 466 of the Penal Code.

(t) “Motor service vehicle” means any vehicle, as defined in Section 6161 of the Vehicle Code, or other mode of transportation, that is used in the business of rekeying, installing, repairing, opening, or modifying locks, or originating keys for locks.

SEC. 2. Section 6980.10 of the Business and Professions Code is amended to read:

6980.10. (a) No person shall engage within this state in the activities of a locksmith as defined in subdivision (j) of Section 6980, unless the person holds a valid locksmith license, is registered pursuant to the provisions of this chapter, or is exempt from the provisions of this chapter.

(b) Any person who does any of the following is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment:

(1) Acts as or represents himself or herself to be a licensee under this chapter when that person is not a licensee under this chapter.

(2) Falsely represents that he or she is employed by a licensee under this chapter when he or she is not employed by a licensee under this chapter.

(3) Carries a badge, identification card, or business card, indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(4) Uses a letterhead or other written or electronically generated materials indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(5) Advertises that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(c) A proceeding to impose the fine specified in subdivision (b) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney

or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

SEC. 3. Section 6980.12 of the Business and Professions Code is amended to read:

6980.12. This chapter does not apply to the following persons:

(a) Any person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) Employees who are industrial or institutional locksmiths, provided that the employees provide locksmith services only to a single employer that does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(c) Tow truck operators who do not originate keys for locks and whose locksmith services are limited to opening motor vehicles.

(d) Any person employed exclusively and regularly by a state correctional institution, or other state or federal agency, and who does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(e) Any person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position that constitute locksmithing are ancillary to the primary duties and functions of that person's position.

(f) Any agent or employee of a retail establishment that has a primary business other than providing locksmith services, providing all of the following criteria are met:

(1) The services provided by the retail establishment are limited to rekeying and recombination of locks.

(2) All rekeying, recombination, and installation of locks must take place on the premises of the retail establishment.

(3) All rekeying, recombination, and installation services provided by the retail establishment subject to this chapter are limited to locks purchased on the retail establishment's premises and are conducted prior to purchasers taking possession of the locks.

(4) No unlicensed agent or employee of the retail establishment shall advertise or represent himself or herself to be licensed under this chapter, and no agent or employee of the retail establishment shall advertise or represent himself or herself to be a locksmith.

(5) No agent or employee of the retail establishment shall design or implement a master key system, as defined in subdivision (o) of Section 6980.

(6) No agent or employee of the retail establishment shall rekey, change the combination of, alter, or install any automotive locks.

(7) The retail establishment shall not have on its premises any locksmith tool, as defined in subdivision (s) of Section 6980, other than the following:

(A) Standard key duplication machines.

(B) Key blanks.

(C) Pin kits.

(g) Any law enforcement officer employed by any city, county, city and county, state, or federal law enforcement agency, if all services are performed during the course of the officer's professional duties.

(h) Firefighters or emergency medical personnel employed by any city, county, city and county, district, or state agency, if all services are performed during the course of duties as a firefighter or emergency medical person.

(i) A new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and employees of a new motor vehicle dealer acting within the scope of employment at a dealership.

SEC. 4. Section 6980.13 of the Business and Professions Code is amended to read:

6980.13. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt or unlicensed locksmith after being notified in writing by the bureau of the individual's unlicensed status with the bureau, is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, except as otherwise provided in this chapter.

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) Any person who is convicted of a violation of this section or Section 6980.10 shall not be issued a license for a period of one year following a first conviction and shall not be issued a license for a period of five years following a second or subsequent conviction of this section or Section 6980.10 or any combination of those sections.

(d) It is the intent of the Legislature that the prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 5. Section 6980.14 of the Business and Professions Code is repealed.

SEC. 6. Section 6980.14 is added to the Business and Professions Code, to read:

6980.14. (a) The superior court in and for the county where any person has engaged or is about to engage in any act that constitutes a violation of this chapter, or where any person engages in the business of a locksmith after the revocation or expiration of any license or during the period of suspension of any license, may, upon application of the chief or any person licensed under these provisions or any association representing those licensees or any member of the general public, issue an injunction or other appropriate order restraining this conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000). The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable injury.

(b) During the period of revocation, expiration, or suspension, any business telephone number used to conduct, direct, operate, dispatch, manage, or utilize an illegal, nonexempt, or unlicensed locksmith business, locksmith service, service provider, or related activity, may be disconnected by ruling of the chief.

(c) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the chief with the approval of the director, order this person to make restitution to persons injured as a result of the violation.

(d) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (c), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(e) A proceeding to impose the fine specified in subdivision (a) and enjoin the unlicensed operation may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(f) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 7. Section 6980.22 of the Business and Professions Code is amended to read:

6980.22. No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant, or pending final disposition of any disciplinary action related to the locksmith business previously filed in another state against the person or applicant or partner, or officer of the applicant.

SEC. 8. Section 6980.26 of the Business and Professions Code is amended to read:

6980.26. (a) Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business, each branch office, and in each mobile service vehicle for which the license is issued.

(b) The director may assess a fine of two hundred fifty dollars (\$250) per violation of subdivision (a). These fines shall be deposited in the Private Security Services Fund.

SEC. 9. Section 6980.33 of the Business and Professions Code is amended to read:

6980.33. A licensee, or a partner or officer of a licensee, shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the licensee, or partner or officer, is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the licensee's place of business. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 10. Section 6980.36 of the Business and Professions Code is repealed.

SEC. 11. Section 6980.48 of the Business and Professions Code is amended to read:

6980.48. (a) Upon determining that the applicant is qualified for registration pursuant to this chapter, the bureau shall issue a pocket registration card to the employee. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.



(b) The registrant shall carry a valid registration card issued by the bureau under this section, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the registrant is engaged in the work of a locksmith whether on or off the premises of the licensee's place of business. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 12. Section 6980.53 of the Business and Professions Code is amended to read:

6980.53. A locksmith licensed by the bureau shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name and license number of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

SEC. 13. Section 6980.54 is added to the Business and Professions Code, to read:

6980.54. (a) A locksmith licensed by the bureau shall be subject to the provisions of Section 466.6 of the Penal Code, and shall be able to duplicate any key for any vehicle from another key.

(b) A locksmith licensed by the bureau shall be subject to the provisions of Section 466.8 of the Penal Code, and shall be able to duplicate any key for a residence, commercial establishment, or personal property from another key, except as follows:

(1) Duplication is prohibited when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful To Duplicate" and includes the originator's company name and telephone number.

(2) Duplication is prohibited when a key is a Restricted Key or a High Security Key and includes the originator's company name and telephone number or registration number.

SEC. 14. Section 6980.59 of the Business and Professions Code is amended to read:

6980.59. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.

(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of five hundred dollars (\$500) for each subsequent violation of this section.

SEC. 15. Section 6980.60 of the Business and Professions Code is amended to read:

6980.60. No licensee or employee shall conduct business from any location other than the location for which a license or branch office registration was issued.

SEC. 16. Section 6980.64 of the Business and Professions Code is amended to read:

6980.64. (a) Every advertisement by a licensee soliciting or advertising business shall contain his or her business name, business address, or business telephone number, and license number as they appear in the records of the bureau.

(b) For the purpose of this section, “advertisement” includes any business card, stationery, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, directory listing, or telephone book listing.

(c) The director may assess a fine of five hundred dollars (\$500) for the first violation of this section and one thousand dollars (\$1,000) for each subsequent violation. These fines shall be deposited in the Private Security Services Fund.

SEC. 17. Section 6980.65 of the Business and Professions Code is amended to read:

6980.65. No licensee or person shall aid and abet an unlicensed or nonexempt locksmith in any activity for which a license is required. For purposes of this section, to aid or abet includes, but is not limited to, the falsification of documents or facilitation of the acquisition of locksmith tools. Any licensee or person found in violation of this section shall be subject to Section 6980.14. A person shall not be subject to this section if he or she reasonably relied on a copy of a license, registration, pocket registration, or pocket identification card.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.